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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,884	09/14/2006	Grzegorz Olesch	2649-2862	1729
28147	7590	04/04/2011	EXAMINER	
WILLIAM J. SAPONE COLEMAN SUDOL SAPONE P.C. 714 COLORADO AVENUE BRIDGE PORT, CT 06605			SMITH, MATTHEW J	
			ART UNIT	PAPER NUMBER
			3635	
			NOTIFICATION DATE	DELIVERY MODE
			04/04/2011	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

wsapone@cssiplaw.com  
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### Office Action Summary

**Application No.**

10/598,884

**Applicant(s)**

OLESCH, GRZEGORZ

**Examiner**

Matthew J. Smith

**Art Unit**

3635

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 62-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 62-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-912)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Claims 1-61 have been canceled.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 62, 64-69, 71, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow, Jr. et al. (4327529).

Bigelow, Jr. et al. disclose a method of constructing a transportable building, comprising: providing a foundation (col. 2, line 26) at a building site; producing a service module 58 of a frame construction in a factory located away from the building site; the service module being rectangular in shape, assembled with a floor, having at least three walls, having a roof 30, and having dimensions corresponding to a transportable vehicle or shipping module 43; the service module being outfitted with installations ready for connection to building services, Fig. 8; producing stackable horizontal floor 36 and roof segments 30 of a frame construction in a factory away from the building site; the horizontal segments connectable endwise with the floor or roof plate of the service module and contiguous for extending the floor or roof; producing vertical wall segments 57 of a frame construction, stackable with the horizontal segments, Fig. 4, in a factory located away from the building site; the vertical wall

segments connectable to the horizontal floor and roof segments; transporting the service module, the horizontal floor and roof segments, and the vertical wall segments to the building site by means of a vehicle appropriate for container transportation; placing the service module 58 on the foundation of the building; placing the horizontal floor segments 23 on the foundation of the building and connecting the horizontal floor segments with the floor of the service module; attaching the vertical wall segments 57 to the horizontal floor segments; attaching the horizontal roof segments 30 to the vertical wall segments and to the roof plate of the service module, such that a complete transportable building is assembled on site; the service module walls and the vertical wall segments produced with predetermined door and window openings; connecting additional structural elements to the assembled transportable building, Fig. 5; stacking the horizontal segments and vertical segments to form a block for transport; the block having a length and a width corresponding to a length and a width of a standardized container for transport with the vehicle appropriate for container transportation, Fig. 4; and the length and width of the service module correspond to a length and a width of a standardized container for transport with the vehicle appropriate for container transportation.

Bigelow, Jr. et al. also disclose a transportable modular building comprising: a service module 58 of a frame construction produced in a factory located away from the building site; the service module assembled with at least a floor, walls and a roof or ceiling plate, the service module to correspond to a shape of a transportable container 43 and for enabling container transportation of the service module; the service module

connected to building services; stackable horizontal floor 23 and roof segments 30 of a frame construction produced in a factory away from the building site; the horizontal floor and roof segments connectable endwise respectively with the floor and roof plate of the service module, and with each other, and contiguous for extending the floor and roof; vertical wall segments 57 of a frame construction being stackable with the horizontal segments, produced in a factory located away from the building site; each vertical wall segment being attachable to the horizontal floor segments, Fig. 5, for providing a wall in the transportable building; the horizontal roof segments attachable to the vertical wall segments and to the service module for providing a roof for the transportable building, Fig. 1, and the horizontal floor segments; horizontal roof segments and vertical wall segments stackable for transport, Fig. 4, forming a block having a length and a width corresponding to a length and a width of a standardized container 43; the horizontal floor and roof segments attached perpendicularly to a longitudinal axis of the service module, Fig.1; the horizontal and vertical segments are of the same construction; and the horizontal floor and roof segments and the vertical segments are of the same dimensions.

This reference does not disclose the service module having a height which substantially corresponds to half of a length, each horizontal segment having a width substantially corresponding to the height of the service module and a length substantially corresponding to the length of the service module, each vertical wall segment having a height substantially corresponding to the height of the service module and a length substantially corresponding to the length of the service module, the

horizontal segments and vertical segments temporarily connected together to form a block.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to fabricate the service module and segments to dimensions that fit into a container and temporarily connect the segments since the dimensions are not critical to the erected house, only the shipping, and connecting segments is standard shipping practice and would not provide a new, unexpected, or unpredictable result.

Claims 63, 73, and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow, Jr. et al. in view of McCrillis et al. (3831327).

Bigelow, Jr. et al. disclose the invention substantially as claimed but not providing at least two service modules, connecting the service modules in an end to end aligned relation such that the floors and roofs of each service module are on the same level, respectively, or the building assembled from two service modules connected in an end to end aligned relation with each other, eight horizontal floor segments connected to floors thereof, eight horizontal roof segments connected to roofs thereof, and eight vertical wall segments attached between the horizontal floor and roof segments.

McCrillis et al. present, in Fig. 7, the concept of service modules 48, 60 in end to end relationship at wall 150.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to connect service modules end to end, as presented by McCrillis et al., in order to erect a structure in more than one direction.

It would have been further obvious to select eight segments since the number of segments is not deemed critical. One of ordinary skill in the art would use as many panels as necessary to make the size of building they desired. The more panels you use the larger the building. Thus, the specific number of panels used is not critical to the invention but a matter of obvious design choice.

Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow, Jr. et al. in view of Harley (2089059).

Bigelow, Jr. et al. disclose the invention substantially as claimed but not vertical assembly posts of a square cross-section and having a width substantially corresponding to a thickness of the vertical segments being placed between neighboring vertical segments.

Harley shows, in Fig. 9, a transportable building having a vertical segment with square posts.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to include square posts in the Bigelow et al. segments in order to facilitate attachment.

Claim 75 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow, Jr. et al. in view of McCrillis et al. as applied to claim 74 above, and further in view of Harley (2089059).

The combination discloses the invention substantially as claimed but not vertical assembly posts of a square cross-section and having a width substantially corresponding to a thickness of a vertical wall segment, placed between neighboring vertical wall segments.

Harley shows, in Fig. 9, a transportable building having a vertical segment with square posts.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to include square posts in the combined structure in order to facilitate attachment.

### ***Response to Arguments***

Applicant's arguments filed 31 January 2011 have been fully considered but they are not persuasive. The examiner contends the prior art discloses modular building structure and method of building as claimed. The service module size is not deemed patentably distinct since the criteria are the pieces fitting into a shipping container which is disclosed by the Bigelow, Jr. et al. structure. Also, there are no structural limitations associated with the term "service module".



***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is (571) 272-7034. The examiner can normally be reached on T-Th, 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eileen Lillis/  
Supervisory Patent Examiner,  
Art Unit 3635

/M. J. S./  
Examiner, Art Unit 3635  
23 March 2011